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Details:

(FORM UPDATED: 08/11/2010)

## **WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS**

**2009-10**

(session year)

**Senate**

(Assembly, Senate or Joint)

**Committee on ... Labor, Elections, and Urban  
Affairs (SC-LEUA)**

### **COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### **INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill) (ar = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

**Senate**

**Record of Committee Proceedings**

**Committee on Labor, Elections and Urban Affairs**

**Assembly Bill 472**

Relating to: certification and licensure of real estate appraisers and requirements for appraisal reports and granting rule-making authority.

By Representatives Zepnick, Young, Fields, Soletski, Jorgensen, Hraychuck, Clark, Dexter, A. Williams, Mason, Sinicki, Richards, Colon, Petrowski and Wood; cosponsored by Senators Plale, Taylor, Lehman and Hansen.

October 29, 2009      Referred to Committee on Labor, Elections and Urban Affairs.

April 22, 2010      Failed to concur pursuant to Senate Joint Resolution 1.



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Adam Plotkin  
Committee Clerk



**To:** All Assembly Representatives  
**From:** Tom Larson, Director of Regulatory and Legislative Affairs  
Michael Theo, Vice President for Legal and Public Affairs  
**Date:** October 26, 2009  
**Re:** AB 472 – Certification and licensure of real estate appraisers

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The Wisconsin REALTORS® Association (WRA) wholeheartedly supports the intent of AB 472 to combat mortgage fraud and predatory lending by requiring credentialed appraisers for all mortgage and real estate transactions. However, we oppose the bill as drafted because it would change current law to prohibit real estate licensees from providing opinions of value to private parties for purposes other than a real estate transaction or mortgage loan.

**We ask that you support an amendment offered by the bill's author, Rep. Josh Zepnick, that will retain current law and allow consumers the choice of using professional real estate licensees to provide expert opinions regarding property value to private parties for purposes other than a real estate transaction or mortgage loan.**

### **Current Law and AB 472**

Under current law, anyone may give an opinion of a property's value as long as the person does not represent (a) himself/herself as a "Wisconsin licensed" or "Wisconsin certified" appraiser or (b) indicate that an opinion of value or appraisal was prepared by a licensed or certified appraiser (Wis. Stat. §§ 458.02 and 458.055). AB 472 requires any person in Wisconsin who receives compensation to perform a real estate appraisal, or prepares or cosigns a real estate appraisal report, to be licensed or certified by the Department of Regulation and Licensing (subject to certain limited exceptions). Under both current practice and this legislation, real estate licensees may provide price comparisons to similar properties and value opinions to help consumers establish listing and purchase prices for real estate transactions.

However under current law, real estate licensees may also provide property value opinions, primarily in outlying areas, for consumers and/or their attorneys in matters of divorce or estate proceedings, for insurance matters and in other non-transactional situations where the private parties may not need or want a comprehensive appraisal and the costs associated with a comprehensive appraisal. These less formal opinions of value serve a need especially in northern and rural communities where there are fewer local appraisers or appraisers willing to do this type of work at a reduced charge and where the local attorneys know the local brokers and understand the type of service they can offer.

### **The Problem**

As drafted, AB 472 allows real estate brokers to continue providing market analyses for establishing "a listing price or to set a purchase price for a property" but would prohibit the current practice of allowing brokers to provide opinions regarding real estate values in non-transactional, non-mortgage situations.

In other words, under AB 472, real estate licensees would be required to have an appraiser's license or certification just to provide an opinion of value on real estate even though their opinion is not for the purpose of getting a mortgage. Moreover, consumers would have to pay for a full appraisal in situations where a full appraisal is neither needed nor wanted.

### **Support Rep. Zepnick's amendment**

The bill's author, Rep. Josh Zepnick, will offer an amendment to address this issue by retaining current law. The amendment should be adopted because:

1) Consumers deserve choices

Without the amendment, AB 472 will deny consumers choices and force them to hire licensed/certified appraisers and pay fees that may not be commensurate with the needed information. Wisconsin consumers should unequivocally be protected against mortgage fraud and predatory lending, but they should also have the opportunity to select less complicated services when the situation does not involve a real estate transaction or a mortgage loan.

2) Intent of the bill preserved

The intent of AB 472 is to stop mortgage fraud and predatory lending by requiring credentialed appraisers for all mortgage loans and real estate transactions. The bill was not intended to deny consumers the choice of obtaining real estate price opinions from licensed professional real estate brokers in situations that do not involve securing a mortgage loan from a financial institution.

3) Disclosures assure consumers are informed

Current law prohibits real estate licensees from calling themselves appraisers or claiming their price opinions were conducted by a Wisconsin licensed or certified appraiser. Moreover, under the Realtors Code of Ethics (Article 11), a Realtor is obliged to indicate their price opinion is not an appraisal, that there is no conflict of interest, demonstrate how the value was arrived at and the purpose of the opinion. Rep. Zepnick's amendment goes one step further by requiring brokers to disclose in writing, that their market analysis is not an appraisal and was not conducted by a licensed or certified appraiser. With this additional disclosure requirement, consumers will be more than adequately informed about the difference between a broker market analysis and a full blown appraisal.

### **Conclusion**

Consumers in Wisconsin have not been harmed by using broker opinions instead of full blown appraisals in divorces, estates or other non-mortgage scenarios. Yet plenty of consumers have been hurt by mortgage fraud and predatory lending. We encourage you to support Rep. Zepnick's amendment to maintain current law allowing real estate licensees to provide opinions of value in non-transactional situations that do not involve mortgages, and then to pass the bill as amended.

Thank you.



**MICHAEL J. MURPHY**

ALDERMAN, 10TH DISTRICT

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Employees' Retirement System Investment Committee  
Finance & Personnel Committee  
Housing Trust Fund Advisory Board  
Milwaukee Arts Board

**MEMBER:**  
Steering & Rules Committee  
Zoning, Neighborhoods & Development

**March 2, 2010**

Senator Spencer Coggs, Chair  
Senate Committee on Labor, Elections and Urban Affairs  
State Capitol  
PO Box 7882  
Madison, WI 53707

Re: Assembly Bill 472 relating to the certification and licensure of real estate appraisers.

Dear Senator Coggs,

At my direction, the City of Milwaukee has fought for this legislation since 1999 when property flipping surfaced as a devastating problem in many Milwaukee neighborhoods. Originally we worked with now Congresswoman Moore to have this legislation drafted and have reworked the language several times in ensuing years to address concerns raised by various parties. The recent increased prevalence of predatory lending activity over the past few years has renewed our sense of urgency to protect Milwaukee residents from these unscrupulous transactions.

I was very pleased when the legislation passed the State Assembly in October and to hear that it was scheduled for a public hearing in the Committee on Labor, Elections and Urban Affairs on March 10th. Now I understand that requests have been made to remove this important bill from the March 10<sup>th</sup> agenda. I urge you to proceed with the hearing for the following reasons.

As an elected official representing over 40,000 Milwaukee constituents I am exposed to transactions involving real estate fraud on an on-going basis. Under current law, any person in Wisconsin can perform a real estate appraisal that will be accepted by many banks or mortgage brokers for purposes of a real estate transaction. This enables property flippers and other predatory real estate actors to fraudulently increase the value of a property to their benefit. This questionable activity falsely drives up real estate prices, and subsequently property taxes, in our neighborhoods. Our districts share many constituents with the same challenges. I've attached a Journal Sentinel article that describes one notorious instance of the problem we are trying to prevent.

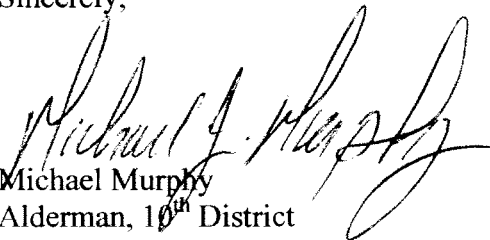
I advocated for this legislation to help eliminate fraudulent activity by requiring that Wisconsin use only licensed or certified appraisers for real estate transactions and mortgages. The bill before you is a compromise that the City of Milwaukee believes will solve the majority of problematic activities we see unlicensed or non-certified appraisers undertaking. Although it will not eliminate the use of unlicensed or non-certified appraisers completely, it does address the number one problem – that being unsophisticated potential buyers being misled about the value of the property they are purchasing. As amended, only licensed Realtors would have an exception to the licensing requirement and only for purposes other than real estate transactions or mortgages (ie. opinions of value for purposes of divorces, estates, trusts).

Currently and without this legislation the Real Estate Appraiser's Board can only discipline appraisers who are licensed and certified. If this bill dies that will continue and citizens all over the State of Wisconsin will not have the same protection that  $\frac{3}{4}$  of the other U.S. states have. As we currently have no recourse in these transactions, holding the hearing and ultimately passing the bill is imperative to our cause.

I realize that this legislation has presented you with a challenging situation since all parties do not agree on the version currently before you. However, I ask you take a moment to consider that it is very much in the best interest of our shared constituents and will reduce real estate fraud that is damaging to neighborhoods in our district. If you do determine the need to take the bill off your agenda on the 10<sup>th</sup>, I urge you to quickly reschedule it at a time that leaves the opportunity to move the legislation forward through the Senate during the April floor period.

Thank you for your consideration of this request. Please feel free to call me if you would like to discuss it further.

Sincerely,




Michael Murphy  
Alderman, 10<sup>th</sup> District

Enclosure.

CC: Senator Jeff Plale  
Representative Josh Zepnick  
Representative Leon Young  
Members, Senate Committee on Labor, Elections and Urban Affairs  
Alderman Willie L. Hines, Jr., Common Council President  
Mayor Tom Barrett  
Common Ground



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 Milwaukee County

# Mortgage broker faces parallel prosecutions

## He's charged with fraud, violent crime

By [John Diedrich](#) of the Journal Sentinel

Posted: Sept. 26, 2007 | [\(0\) Comments](#)

Michael Lock is charged with leading a ruthless drug ring and has been linked to the robbery of a man whose body was found with another corpse under a concrete slab, but the 36-year-old doesn't have the résumé of a street criminal.

Lock, a mortgage broker, owned two businesses that federal authorities allege were part of elaborate scheme. Federal charges against Lock could get him the same life sentence he could face if convicted in state court of the violent crimes prosecutors link to him and a ring identified as "the body snatchers."

Lock and nine other people have been charged in a fraud scheme that involved at least 25 homes and \$2.3 million in loans, according to federal search warrants unsealed last week.

Over four years, the documents allege, Lock and the others falsified loan applications and used bogus appraisals to inflate loans for straw buyers. They siphoned off money for themselves at the closing and never paid the mortgages, letting the central-city properties fall into disrepair and foreclosure, documents say.

So far, there is no connection in court documents between the charges of violence and fraud, other than the fact Lock is accused of heading both operations.

Prosecutors declined to comment. Lock's attorney did not return calls.

Lock is charged with 20 counts of fraud that could send him to federal prison for life. Other defendants, who worked at his mortgage business, did appraisals for him and otherwise stand accused of helping in the alleged fraud, face major prison time if convicted.

Lock is being held at the Milwaukee County Jail on a federal detainer, probation hold on a 2003 drug-trafficking conviction and in lieu of \$750,000 cash bail.

Federal court documents say that Lock built a network to support the fraud: phony buyers, corrupt appraisers, check forgers and a day-care center owner who fabricated buyers' incomes for loan applications.



According to the court records, the case of Stacie Happel illustrates how the scheme worked:

In early 2005, Lock told Happel she could fix her credit and make good money if she agreed to buy some run-down Milwaukee houses. Lock promised to manage and fix up the homes, later reselling them for a fat profit.

He told her it didn't matter that Happel made only \$21,000 a year. It was "standard practice" for buyers to lie about earnings and rental history on loan applications, he said. Happel was listed as making \$90,000 a year by Nicole Brown, owner of Jasmine's Learning House and a defendant in the case

The houses Happel bought were certainly distressed. One, at 1918 N. 13th St., was assessed at \$26,300 in 2005 but sold that year for only \$10,000. Thanks to what investigators say was a bogus appraisal done by Lock's partner and another defendant, Jerhonda McCray, the value jumped to \$165,000 by the time Happel bought it just months later.

At the closing, Lock and his partners siphoned at least \$89,000, the records indicate. No one paid the mortgages on the houses, and they ended up in foreclosure - with Happel on the hook.

"They subsequently default on the mortgage payments, letting the properties go into foreclosure and leaving the straw buyers to deal with the mortgage companies," court documents say, describing Lock's and others' actions.

There are at least seven lenders' lawsuits against Happel, according to online court records. Lock's other "straw buyers" face similar suits.

Happel, who later worked for Lock but has not been charged, sought protection in bankruptcy court earlier this year. Her phone has been disconnected, and she could not be reached for comment.

Mortgage fraud can hurt neighborhoods. Inflated property values can lead to higher assessments - and potentially higher taxes - for nearby properties. And those overvalued properties typically are among the worst in the neighborhood because the scheme is designed to neglect them.

City officials are concerned about the effects of such fraud and have a program to spot suspicious deals and make sure they aren't used when figuring assessments, said city Assessor Mary Reavey.

The federal Lock investigation, run by state investigators and the FBI, started in 2005 with a tip that Lock and one of his partners, Chianti Clay, also charged, were committing mortgage fraud, documents said.

Lock ran World Financial Mortgage, with offices in Bayside and Milwaukee's south side, and worked as a broker at CW Mortgage in Wauwatosa. All those businesses, along with Lock's home in the 4300 block of N. 15th St., were searched in July.


Investigators came away with boxes of mortgage information, 11 computers and other documents, records indicate.

Among the evidence was paperwork on a house at 4900 Fiebrantz Ave., where the two bodies were found under a slab in 2005.

Officials said the investigation continues.



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 Milwaukee County

The Preacher's Mob | The Rise and Fall of a Milwaukee Crime Boss

## Mortgage pimp bilks borrowers, lenders

By [John Diedrich](#) of the Journal Sentinel

Posted: May 21, 2009 | [\(0\) Comments](#)

*Fourth of five parts*

Michael Lock orchestrated a mortgage fraud that cost banks millions of dollars, destroyed people's finances and heaped misery on Milwaukee's already battered inner-city neighborhoods.

And he did much of it while out on work release from a Wisconsin prison.

Lock even managed to run his scams from behind bars using a prison phone.

It was yet another example of how Lock outsmarted the criminal justice system for a decade while building one of Milwaukee's biggest crime organizations.

He executed more than \$2&ensp;million in mortgage fraud with an assembly line of liars, each positioned at a key step in the home-buying process.

Chelsie Woodley, Lock's loan processor at his Bayside office, witnessed the fraud firsthand.

She saw loan after loan come in with phony paperwork, fake incomes, bogus rental histories and forged bank records. Lock and his crew were literally making up people.

"This is federal time," she told Lock. She then walked away from the operation.

### Seasoned in real estate

Mortgage fraud came naturally to Lock.

He owned a home-repair firm that he used as a money-laundering front for his illegitimate businesses. He had started buying property a decade earlier, building a portfolio of 50 houses scattered across the northern half of the city.

He owned dumps and middle-class homes, some that he poured money into and lived in himself.

Lock's crime operations generated huge cash profits - profits whose sources needed to be hidden. He

used seemingly legitimate businesses to explain where all the money came from.

But Lock saw the chance to make more money by converting legitimate businesses into criminal enterprises.

Years of running his outfit with minimum resistance from law enforcement had taught him that he could get away with it.

Authorities did bust Lock in 2002 trying to sell 9 ounces of cocaine. He agreed to become an informant in exchange for a light sentence.

He served less than a year in a traditional prison and the rest at a minimum-security correctional facility in Milwaukee. He was out on work release during the day and spent his nights at the Marshall E. Sherrer Correctional Center.

Lock got a job at Andrea Nembhard's real estate company on W. Silver Spring Drive.

Nembhard knew Lock from an earlier real estate deal. She had arranged for him to buy the house at 4900 W. Fiebrantz Ave., where Lock's crew later killed at least two drug dealers and buried them in the backyard.

Nembhard thought Lock was trustworthy because he and his grandfather were pastors. She wanted him to do clerical work and cleaning.

Prison officials told Nembhard that Lock couldn't have personal visits or phone calls and couldn't handle money.

That was fine with Nembhard. She didn't have grand plans for him. Lock's main jobs were to answer the phone, cut the grass and keep the place tidy.

But she left Lock alone in the office a lot. And Lock took advantage of that time to do all the things he wasn't supposed to do.

Lock probably never should have been placed at such a job. Prisoners participating in the program are typically sent to jobs where they can be watched more closely, such as a factory or a warehouse.

Nembhard never had had a prisoner working for her before. She said she did the best she could.

"He was cheap. It was a lucrative arrangement for me because I was out and about," Nembhard said. "I can't watch this man like a baby sitter. Come on. My office was not a prison cell."

## Licensed felon

Lock spent several months working for Nembhard, fine-tuning his mortgage fraud operation.

Once he got out of prison in mid-2005, he stepped it up.

First, he landed a state loan originator's license. Lock knew the state prohibited anyone convicted of a "crime of dishonesty" from holding such a license.

But drug dealing didn't count in the eyes of the state.

Lock opened World Financial Mortgage on the North Shore. He and his girlfriend, Shalanda Mason, moved into a home in nearby Mequon. Mason worked as a prostitute for Lock for years, prosecutors say.

Jerhonda McCray, already in the mortgage business, became Lock's partner. He also started sleeping with her.

Lock's team started by hunting for naïve buyers with good credit scores. He boosted their financial profiles by hiring a counterfeiter to make phony bank records and wage statements.

Then they looked for houses, the more broken down the better. It was easier to use a home in inner-city Milwaukee because it wasn't worth much and Lock's crew could write up inflated appraisals.

McCray applied for loans from out-of-town banks that wouldn't question the appraisal. At the closings, Lock took a big cut of the mortgage money for himself.

Lock charmed the young female buyers he targeted.

He told them he would collect the rent, fix up the homes and sell them for a quick profit - all promises he failed to keep.

Lock once called himself a credit pimp. He was using the women's credit rating instead of their bodies.

When the buyers couldn't make their mortgage payments, several ended up in bankruptcy with an anchor of debt around their necks.

Monique Bowen was a typical case.

She was a 24-year-old college student with a part-time job in 2005. Lock told her he knew someone selling foreclosed homes and gave her the pitch: Bowen would buy them. Lock would fix them up and sell them a few months later. She would get \$5,000 per house.

Bowen signed up to buy five. She saw photos of the run-down houses but figured she wouldn't have them under her name for long.

Weeks after the last closing, Bowen started getting letters from banks about late mortgage payments. And the City of Milwaukee demanded she fix code violations.

The banks sued Bowen and the houses were taken. Her credit was destroyed. And Lock, who made \$74,000 off fraudulent mortgages in her name, wouldn't take her calls.

## **Out on the town**

Out of prison and raking in thousands on his mortgage scam, Lock began to relax - and show his face in public. In the summer of 2005, he went with friends to Jazz in the Park at Cathedral Square.

Milwaukee police Officer Dean Newport happened to be there that Thursday night.

Newport had tracked Lock for years but wrote him off after he was busted with cocaine by federal

agents. He couldn't believe Lock was free.

"How the hell did he get out?" Newport wondered.

At the park, Newport took photos of Lock talking on his cell phone. It was a violation for a convicted drug dealer to have a phone. Lock went back on Newport's list of suspects to watch.

Newport was still a police officer. He had passed on taking the detective's test. Most expected him to go that way because of his knack for bigger cases. But Newport wanted to stay on days. New detectives have to work nights.

He made it to the detective bureau as an officer. He was doing what he always wanted: working major cases.

Newport loved working with his sources. He was hearing from them that a mercenary group kidnapped and tortured drug dealers in Milwaukee. They called themselves the "Body Snatchers."

Newport had known of Lock for six years. But he didn't realize Lock ran the Body Snatchers.

Then Lock got cocky and made his biggest professional mistake.

He decided to sell the house on Fiebrantz, where two bodies were buried under pit bull kennels in the backyard. He sold the property despite a warning from one of his top lieutenants, Donald "Killer Coop" Cooper, that he should never sell the house.

But Lock saw quick profit.

He sold the house to Stacie Happel, making about \$70,000 off the deal. Lock might have figured he could control Happel, who worked on mortgage deals in his Bayside office.

What he didn't figure was that Happel's boyfriend would smash up the concrete slabs in the backyard and find the remains of one of Lock's victims. The boyfriend ran across the street to the fire station to report what he had found.

In that instant, Lock's crime network began to crack.

Lock said recently he would be stupid to sell a house with bodies in the yard.

"That's like the world's dumbest criminal," he said.

## **Empire begins to crumble**

Days after the bodies were found, Lock was thrown in jail for a series of probation violations.

He lied about his income and had moved without permission. His probation agent didn't even know where he lived.

The bodies in the yard of a house he once owned weren't enough to put him away for good. Investigators needed evidence linking Lock to the murders.

With his release date approaching, probation officials ran out of options. They had to let him go.

They asked police if they really want a convicted drug dealer suspected in a couple of murders released.

The cops were silent. Lock had to be released. It looked like he might beat the system again.

But Newport, his old nemesis, had a new weapon: Lock's eyeball man, Louis Jackson, had flipped and was willing to secretly record his boss.

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472

Jennifer Ganda, SC - AB ~~472~~ - 11/17  
- Real Estate Appraiser

- identified as issue in 1999 in conjunction w/ property flipping
- More legislation in 2001
  - req'd license to do real estate appraisal
    - ↳ or certificate
  - WRA, DRL had issues
    - ↳ broker market analysis (look @ comps to set listing price)
  - amended bill to allow that
- died for a couple years, came back up w/ foreclosures
- AB 472 can take care of property flipping + foreclosures
  - all appraisers need license
  - amdt. - appraisers opposed, city doesn't like for property tax assessment
  - city wants bill to pass, even w/ amendment
  - appraisers will not want bill with amdt.
- Amdt.
  - JB met w/ appraisers + assessors to come up w/ compromise
  - Realtors convinced Lepnick, Plake, + Young to do amdt. before JB came back w/ alternatives
  - disclosure of unlicensed accepted
    - exempt appraisers for property tax appeals
    - allow discipline for real estate licensees

Library Board →

- OK to do with Colón





AB477

Tom Larson  
Bryan Brooks  
Wed. 2/3 @ 10a

## Cert. of Licensing of Appraiser

- must use certified appraiser
- prohibits simple REALTOR's
- amelt. adopted on floor unan.
- ~~was not another amelt~~ 1983 appraiser  
only for mortgage
- keep bill as is from Assembly



# BUSINESS

AFTER BUYING SCHERING-PLOUGH, MERCK LOOKS FOR MORE DEALS WITH BIOTECH COMPANIES. PAGE C4

## Food Fight growing as opportunities arise

### EXECUTIVE Q&A

#### MONTY SCHIRO

President and CEO of Food Fight restaurant group

Business address: 2002 Atwood Ave.

**Restaurants:** Bluephies, Eldorado Grill, Fresco, Hubbard Avenue Diner, Johnny Delmonico's Steakhouse, Market Street Diner, Monty's Blue Plate Diner, Ocean Grill and two Tex Tubbi's Taco Palace locations

Web site: [www.foodfightinc.com](http://www.foodfightinc.com)

**Education:** Bachelor's degree in art history from UW-Madison

**Family:** Daughter Hannah, 21; son Travis, 18

The restaurant group has added Carl's Cakes and is offering other services.

By JANE BURNS  
jburns@madison.com  
608-252-6440

Monty Schiro has reservations. It's not just because he's president and CEO of Food Fight group, with 10 restaurants in Madison and the surrounding area. Schiro has reservations about taking too much credit for the success of the company. He also has reservations about calling 2009 a good year for Food Fight, saying that it is mostly in comparison to 2008.

But even so, in an industry

that has seen declines nationally because of the down economy, Food Fight has found economical ways to grow. The company added Carl's Cakes in Sun Prairie and the Frank Lloyd Wright Visitor Center restaurant near Spring Green to the fold while also adding catering and cafeteria business.

Schiro is a Madison native who grew up in the Greenbush neighborhood and on Monroe Street. He has a degree in art history and also studied architecture but ended up in the restaurant business instead. He worked at Ovens of Brittany for nine years and in 1990 opened what is now Monty's Blue Plate



JANE BURNS - State Journal

Monty Schiro is president and CEO of Food Fight, which has seen growth in its restaurant group this year despite a down economy.

Please see **SCHIRO**, Page C2



STEVE APPS - State Journal

Licensed appraisers Andrew Kessenich, left, and his younger brother, Mike, from Madison-based J.L. Evans Co. take notes to determine the property value of a Downtown student apartment building. A legislative battle this fall over who should be able to do appraisals in Wisconsin pitted real estate agents against professional appraisers like the Kessenich brothers. Despite having less required education and training in property valuation, agents retained their ability to do many appraisals as the fall session ended.

Licensed appraisers want to limit value opinions by real estate agents.

By KAREN RIVEDAL  
krivedal@madison.com  
608-252-6106

Getting a property appraisal on the cheap could become more difficult in Wisconsin if state appraisers have their way, although the quality of the work done could be better.

A debate over who should be able to provide value opinions — real estate agents or professionally trained appraisers — is pitting questions of consumer choice against consumer protection, with future service to state residents who buy and sell property or need price estimates for other reasons at stake.

The Wisconsin Realtors Association last month managed to beat back a legislative attempt by appraisers to drastically restrict the ability of agents to provide opinions about property values for clients.

But the battle over who can or should do

### APPRAISER STATISTICS

- Wisconsin has 2,492 licensed appraisers, including 1,827 with advanced certifications. In 2008, there were 2,373 licensed appraisers.
- There were 121 complaints filed by residents in 2008 against appraisers, compared to 152 in 2007 and 89 so far this year.
- Appraisers must have 300 hours of education and 3,000 hours of supervised experience to be licensed at the highest level of certification.

Source: State Department of Regulation and Licensing, Wisconsin Chapter of the Appraisal Institute.

appraisals and for what purposes is only half over. Professional appraisers, who have far more required education and training in property valuation than agents under state and federal law, are expected to raise the issue again in the spring.

Chetek-area resident Sara Olson already knows where she stands on it. Olson recently had agent John Flor do an informal appraisal — for free — of her and her husband's house outside Chetek. The couple

recently deeded the house to their son and they "just wanted to see what it would be worth in today's market," Olson said.

"It was a real fast thing," she said. "I know Flor just because we live in a small town and we knew his dad and they've been doing business here for years."

Olson said she "surely would not" be pleased if state law were changed to require her to use a certified or licensed appraiser for that kind of job.

"Why should I have to pay \$200 to get a formal appraisal if all I need is a market value?" she said.

### Appraisers favor restrictions

But saving a few hundred dollars shouldn't be the priority when it comes to determining property values, appraisers and their supporters say.

"For most people, decisions involving real estate are the biggest financial decisions that they will make," said Jennifer Gonda, a senior legislative manager with the city of Milwaukee, which joined a state appraisers group in seeking to restrict

## Fashion brands change stores

Labels are trying to combat slow sales by finding new retailers.

By ANNE D'INNOCENZIO  
Associated Press

Some of fashion's best-known names are playing musical chairs.

Faced with a consolidating department store industry and eroding sales, some labels are cutting ties with retailers that sold their clothing and betting their future with one chain. Liz Claiborne's announcement last month that it's moving its namesake line to J.C. Penney Co. from Macy's and other stores follows similar moves by other major brands like Tommy Hilfinger and Dana Buchman.

"You need some sort of chart ... with retailers and brands, where you are using erasable ink," said Michael Stone, CEO of The Beantalk Group, a brand consultant. "They are moving around so much."

The brand-hopping can confuse shoppers who can't find their favorite label. But in some cases it means shoppers will be able to get a taste of designer names that only two years ago were far from their grasp.

In the short term, such confusion may hurt the brand, Stone said. But in the long run, the label "settles into its new identity" and becomes a powerful tool for the retailer to attract shoppers.

Some brands, like Liz Claiborne, had been the anchors at department stores for years but have hit hard times. Trading mass distribution for better exposure at one store could help them revive their labels. Brands also benefit by getting more prominent placement in advertising and increased space at the chain.

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visit:

# APPRAISERS | Realtors association fighting proposal

Continued from Page C1

agents last month. "Basic consumer protection should require that a Wisconsin licensed or certified appraiser perform real estate valuations within the state of Wisconsin."

Real estate agents and their backers, meanwhile, see the dispute as a turf battle over business, with appraisers just trying to muscle out agents.

If that happens, they say, the consumer will suffer because many agents provide informal appraisals in different situations — such as for divorce negotiations when a house is at stake, for property tax appeals, for home insurance purposes, for easements, or for estate settlements involving property — at little or no cost compared to licensed appraisers, who also are in short supply in the northern and more rural parts of the state.

"Many times attorneys and clients don't need a full-blown appraisal," said Bub Zwyrta, an agent in the Monroe area. "I can understand the appraisers just wanting everybody out of their business. But there haven't been problems (with agents doing this work). I don't know of an estate appraisal I've done in 30 years that has been contested."

Being able to do price opinions also is a marketing tool for agents, they said.

"It's a way of making connections with people," Chetek-area agent Flor said. "I do those things for free, and hopefully they'll call you down the road for something."



STEVE APPS - State Journal

Licensed Madison appraiser Andrew Kessenich inspects a Downtown student apartment building.

But the sweeping prohibition, coupled with little evidence of problems in those situations caused by informal appraisals, has caused problems, WRA officials say. "It was only because our members that said Tom Larson, director of industry and legislative affairs, 'This looked like a 'no out'-type situation. They wanted to hire an appraiser.'"

maintain the same understanding to price and use comparable properties to intelligently estimate value, especially for residential property.

"You can't have a person who has a vested interest in local market conditions," Larson said. "We could debate that all day long. But that's what appraisers do — they determine what things are worth."

But appraisers say their attorneys' training makes them a safer choice for consumers

## State survey: Who can do value opinions

- Thirty states and four U.S. territories are "mandatory states," where certified/licensed appraisers must be used for any service requiring an opinion of value.
  - Wisconsin and 12 other states take a mixed approach, with certified/licensed appraisers required just for federally-related transactions.
  - Seven states are "voluntary states," where certified/licensed appraisers aren't required for any appraisal services.
- Source: Appraisal Subcommittee, a federal agency charged with regulating real estate appraisers.

with the public interest.

"We have a set of regulations as the phone book we have to follow, strictly related to property valuation," said Kessenich and certified appraiser Andrew Kessenich, who is president of Evans Co. in Madison. "An appraiser is subject to all of these regulations, and the real estate agent is not because the public interest and the consumer."

"It's not really about taking somebody's business," said Steve Stiloski, president of the Wisconsin Chapter of the Appraisal Institute.

## Anything but mortgage

The amendment, introduced by state Reps. Josh Zepnick (D-Milwaukee,

and Leon Young (D-Milwaukee), would allow agents to continue doing value opinions for their clients in all situations except when it involves a mortgage transaction.

In that respect, the amendment and the original measure both reject federal law that prohibits agents from providing property values for most mortgage transactions — specifically, those that are deemed "federally related," meaning those that are backed by a government agency such as the FHA or VA and a secondary loans market to Freddie Mac.

In those cases, even under current law, a certified or licensed appraiser — not by law is a neutral party in the real estate transaction,

are not — must be used. The amendment would even further and requires licensed appraisers for any type of mortgage application or refinancing or short sale, even the sale of such transactions that are not federally related, to help prevent the kind of over-valuations that helped lead to the housing collapse.

"The bill was always intended to be making sure (banks and other lenders) are using certified appraisers for those mortgage transactions," Zepnick said.

Zepnick downplayed the amendment's main effect of letting agents continue to do informal appraisals in other situations.

"Frankly, the appraisers are just doing what they ought to do — looking out for their own interests," he said. "They're trying to expand their corner of the market and they see (agent involvement) as a problem or as a conflict. I don't see that, and nothing we do is final. If you miss something or there's an unintended consequence, you can change it or modify it (in a future legislative session)."

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The original proposed measure to limit agents, known as AB 472, was effectively neutered on Oct. 27 in the Assembly after 1,700 agents in two days called or e-mailed their legislators at the WRA's request. But the polarizing issue is likely to resurface in the Senate when lawmakers come back for the spring session.

"Watch for the next call to action," WRA chief lobbyist Mike Theo told agents in a victory video posted on the group's Web site after the measure was approved by the Assembly on Oct. 27 with a crucial amendment protecting agents' rights supported by the WRA.

The Senate sponsor, Sen. Jeff Pils, D-South Milwaukee, already has agreed to include the WRA amendment when he introduces the measure as SB 339.

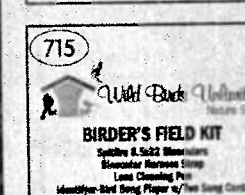
The original measure was advanced by the Wisconsin Chapter of the Appraisal Institute and the city of Milwaukee, which Gonda says became involved because of "pretty consistent problems" with people using "very faulty" appraisals done by agents and others to challenge property tax assessments. Going through the required process of rejecting these "outlandish" valuations winds up wasting everyone's time and money, she said.

City of Madison Assessor Mark Hanson said that kind of problem hasn't been an issue in Madison, where most people already used certified appraisals in challenges.

"We put our appraisal up against theirs and critique each other's," Hanson said. "If it's done by someone who's not licensed, and if it's a poor job, that will come out."

The original measure would have limited agents to providing value opinions only to help clients establish a listing price for a property or make a purchase offer — the two most basic things agents do for buyers and sellers.

Value opinions by agents in all those other situations — involving the divorces, estates, tax appeals and insurance issues — would



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 here are a few places worth a  
 visit:

# APPRAISERS | Realtors association fighting proposal

Continued from Page C1

agents last week. Consumer protection should be a top priority for Wisconsin, said a WRA spokesman. Licensed or certified appraisers provide estate valuations in the state of Wisconsin."

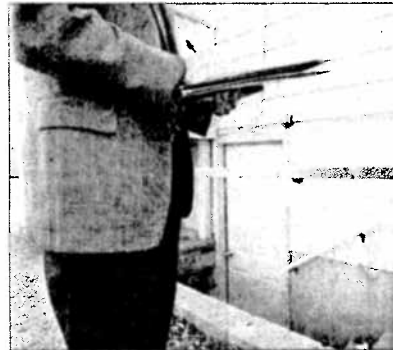
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If that happens, they say, consumers will suffer because many agents provide informal appraisals in different situations, such as for divorce settlements when a house is at stake, for property insurance purposes, for estate planning, or for estate settlements involving property — all of which or no cost compared to licensed appraisals. They also are in short supply in the northern and central parts of the state.

"Many of our attorneys and clients don't need a full-blown appraisal," said Bub Zepnick, an agent in the Monroe area. "They just want to get a rough idea out of their pocket. But there have been problems (with agents doing this work). I don't know of an estate appraisal done in 30 years that has been contested."

Being able to price homes also is a market-boosting tool for agents, they said.

"It's a way of making connections with people," Chet Larson, agent Flor said. "Do those things for free, and they'll call you down the line for something."



STEVE APPS - State Journal

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have been banned by the original measure.

But the sweeping nature of that proposed prohibition, coupled with little evidence that agent opinions in those situations caused any serious problems, turned off lawmakers, WRA officials said.

"It wasn't just because our members called," said Tom Larson, WRA's director of regulatory and legislative affairs. "This looked like 'fence me out' type of legislation. They wanted everybody to hire an appraiser."

Real estate agents also maintain that they understand how to price and use comparable properties to intelligently provide such estimates, especially for residential property.

"You can debate as to who has a better feel for local market conditions," Larson said. "We could debate that all day long. But that's what Realtors do — they determine what things are worth."

But appraisers say their advanced training makes them a better and safer choice for consumers for

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